IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Manjeet Singh & Ors. Vs. State of Rajasthan

S.B. CR. MISC. PETITION NO. 660/2006

against the order dt.24.4.2006 passed by learned Additional Sessions Judge, Raisinghnagar, Distt. Sriganganagar in Sessions Case No.06/2004.

DATE OF ORDER :: July 17, 2006

HON'BLE MR.H.R.PANWAR,J.

Mr.J.V.S.Deora for Mr. Pushpendra Singh, for the petitioners.
Mr.Ashok Upadhyaya, Public Prosecutor.

BY THE COURT:

Notice for final disposal has been accepted by Mr. Ashok Upadhyaya, learned Public Prosecutor. With the consent of learned counsel for the parties, the matter is finally heard and decided at the admission stage.

It is contended by learned counsel for the petitioners that witness Ram Pratap, who was cited as a prosecution witness in the list of witnesses at serial No.36 along with the challan papers

has not been produced by the prosecution and the accused-petitioners wish to examine him in their defence. An application was made by the petitioners before the trial court to summon the witness Rampratap, which was decided by the order impugned.

Section 233 Cr.P.C. provides that where the accused is not acquitted under section 232, he shall be called upon to enter on his defence and adduce any evidence he may have in support thereof. Sub-section (3) of section 233 Cr.P.C. provides that if the accused applies for the issue of any process for compelling the attendance of any witness or the production of any document or thing, the Judge shall issue such process unless he considers, for reasons to be recorded, that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice.

In view of the provisions of section 233 Cr.P.C., the order impugned to the extent refusing to summon the witness Rampratap cannot be sustained and is liable to be set aside.

Consequently, the misc. petition is allowed. Order impugned refusing to summon the witness Rampratap, who was cited in the list by the prosecution at serial No.36 is set aside

and the trial court is directed to summon the witness Rampratap on the expenses, which shall be borne by the petitioner as a defence witness.

[H.R.PANWAR],J.

m.asif/-